

**Notice of Allowability**

Application No.

09/361,425

Examiner

Chih-Min Kam

Applicant(s)

KUNG ET AL.

Art Unit

1653

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/01/04.
2. ☒ The allowed claim(s) is/are 17-19 and 22-24.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 4/25/01; 1/22/04; 4/7/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 2004-08-17.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James Barr on August 16, 2004 and Andrea Colby on August 17, 2004.

**Examiner's Amendments to the Specification:**

Please replace the paragraph at page 1, lines 2-5 with the following paragraph:

Reference to copending patent applications: This patent application is being filed simultaneously with U.S. Patent Application Serial No. 09/322,526, filed May 28, 1999 (Attorney Docket No. NEU-017; inventors Christopher Stahl and Frederick Woodin), abandoned and hereby incorporates herein the disclosure of such patent application by reference.

**Examiner's Amendments to the Claims:**

Please cancel claims 14 and 16.

Claims 19, 22, 23 and 24 have been amended as follows:

19. (Currently amended) A composition wherein said composition is a topical composition comprising therapeutically active amounts of at least one oxygen-labile species selected from the group consisting of a retinoid, choleciferol, vitamin K, an ascorbic acid, and a tocopherol; and a stabilizer compound comprising N-acetylcysteine, wherein said oxygen-labile species are a retinoid, a tocopherol and an ascorbic acid, and wherein said composition is in a form selected from the group consisting of emulsions, creams, lotions, gels, essences, milks, toners, hydroalcoholic solutions, multivesicular systems, suspensions, patches, masks and sticks.

22. (Currently amended) A composition comprising a retinoid in an amount of about 0.01% to about 10% by weight of the composition, a tocopherol in an amount of about 0.01% to about 10% by weight of the composition, [and] an

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ascorbic acid in an amount of about 0.01% to about 20% by weight of the composition and N-acetylcysteine in an amount of about 0.001% to about 5% by weight of the composition, [and] wherein said composition is in a form selected from the group consisting of emulsions, creams, lotions, gels, essences, milks, toners, hydroalcoholic solutions, multivesicular systems, suspensions, patches, masks and sticks.

23. (Currently amended) A composition wherein said composition is a topical composition comprising a retinoid in an amount of about 0.01% to about 10% by weight of the composition, a tocopherol in an amount of about 0.01% to about 10% by weight of the composition, [and] an ascorbic acid in an amount of about 0.01% to about 20% by weight of the composition and N-acetylcysteine in an amount of about 0.001% to about 5% by weight of the composition, and wherein said composition is in a form selected from the group consisting of emulsions, creams, lotions, gels, essences, milks, toners, hydroalcoholic solutions, multivesicular systems, suspensions, patches, masks and sticks.

24. (Currently amended) A composition wherein said composition is a topical composition comprising an ascorbic acid in an amount of about 0.01% to about 5% by weight of the composition, a retinoid in the amount of from about 0.01% to about 10% by weight of the composition and N-acetylcysteine in an amount of about 0.001% to about 0.1% by weight of the composition, and wherein said composition is in a form selected from the group consisting of emulsions, creams, lotions, gels, essences, milks, toners, hydroalcoholic solutions, multivesicular systems, suspensions, patches, masks and sticks.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (571) 272-0948. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached at 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chih-Min Kam, Ph. D. *CMK*  
Patent Examiner

CMK  
August 17, 2004

*Jon P. Weber*  
*Supervising*  
Jon P. Weber, Ph.D.  
Primary Examiner